

1

2

3

4

5

6

7

8

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

MIGUEL ANGEL CUEVAS,  
Petitioner,  
vs.  
D.W. NEVEN, *et al.*,  
Respondents.

Case No. 2:14-cv-02137-JAD-CWH

## ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner.

19 Neither a filing fee nor an application to proceed *in forma pauperis* was submitted with the  
20 petition. When filing a habeas petition, a petitioner must either submit the \$5.00 filing fee for  
21 habeas petitions or an application to proceed *in forma pauperis*. Due to the lack of an *in forma*  
22 *pauperis* application or filing fee, the present action will be dismissed without prejudice to the filing  
23 of a new petition in a new action with a pauper application with all required attachments. It does  
24 not appear from the papers presented that a dismissal without prejudice would result in a promptly-  
25 filed new petition being untimely. In this regard, plaintiff at all times remains responsible for  
26 calculating the running of the limitations period as applied to his case and properly commencing a  
27 timely-filed habeas corpus action.

28

**IT THEREFORE IS ORDERED** that this action is **DISMISSED** without prejudice to the filing of **a new petition in a new action**.

**IT IS FURTHER ORDERED** that the Clerk of the Court shall send petitioner two copies of an *in forma pauperis* application form for a prisoner, one copy of the instructions for the same, two copies of a blank 28 U.S.C. § 2254 habeas petition form, and one copy of instructions for the same.

**IT IS FURTHER ORDERED** that petitioner may file a new petition in a new action, but he may not file any more documents in this action.

**IT IS FURTHER ORDERED** that all pending motions, including the motion for the appointment of counsel (Doc. 2), are **DENIED**.

**IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**. Reasonable jurists would not find the dismissal of the improperly-commenced action without prejudice to be debatable or wrong.

The Clerk of Court is instructed to enter judgment accordingly.

Dated this 17<sup>th</sup> day of December, 2014.

Dorsey  
UNITED STATES DISTRICT JUDGE